THE HONOURABLE SRI JUSTICE V.ESWARAIAH

Date:15-12-2005

WRIT PETITION No.26272 OF 2005

BETWEEN:

L.Srinivas.

…Petitioner

And

The Station House Officer, Kothur Police Station, Mahaboobnagar District & others.

…Respondents

ORDER:

The petitioner seeks to issue a writ of mandamus declaring the action of the first respondent in threatening, harassing and interfering in the civil rights of the petitioner as illegal and arbitrary.

Heard the learned counsel appearing for the petitioner and the learned Government Pleader.

It is stated that the petitioner is the owner of the land admeasuring Ac.1-00 along with the plant and machinery in Sy.No.1708, known as Katamgadda, Chalkapatta situated at Nandigoan village, Kothur Mandal, Mahaboobnagar District. He entered into an agreement of sale to sell the said property in favour of one Neeraj Kumar on 22-4-2004 for a sum of Rs.20 lakhs, out of which a sum of Rs.8 lakhs was paid and the balance amount of Rs.12 lakhs was agreed to be paid in 13 months and the said 13 months time has been elapsed by May 2005. As the balance amount has not been paid, the agreement of sale become null and void and the advance amount of Rs.8 lakhs is liable to be forfeited and thereafter, said Neeraj Kumar illegally started interfering with the rights of the petitioner. Therefore, the petitioner filed a report before the Inspector of Police, Shadnagar on 3-7-2005, stating that the agreement has been lapsed he locked the shed on 30-6-2005 and also intimated the same to the first respondent. It is further stated that since 1-7-2005 some unknown persons are trespassing into the said property stating that Neeraj Kumar engaged them and threatening the petitioner. It is further stated that the first respondent is illegally interfering and harassing the petitioner in a civil dispute.

A counter has been filed by the first respondent and the Government pleader appearing for the respondents after getting instructions, submits that in fact said Neeraj Kumar lodged a complaint before the police on 21-7-2005 against the petitioner and others alleging that the petitioner himself trespassed into the said land and wrongfully confined the watchman of Neeraj Kumar and beat him mercilessly and locked the premises. In that connection a criminal case in Crime No.143/2005, under Sections 406, 427, 420, 506, 323, 341 read with

Section 34 of Indian Penal Code has been registered and investigation is taken up.

The learned counsel for the petitioner submits that the question of petitioner trespassing into his own land does not arise.

A perusal of the agreement of sale goes to show that the petitioner has delivered possession of the said property on the date of agreement of sale in favour of Neeraj Kumar. If that be so, the contention of the learned counsel for the petitioner cannot be accepted. However, it is a matter to be investigated by the police as to who committed the offence. In view of the registration of the crime against the petitioner, I do not see any illegal interference by the first respondent, more so when the investigation is pending.

The writ petition is dismissed accordingly. No costs.

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V.ESWARAIAH, J

Date: 15-12-2005.

Shr.